IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2496 OF 2005

Union of India and Ors. ... Petitioners

Versus

Atulkumar R. Kukmbhare & Ors. ... Respondents

Ms. Ritu Singh with Mr. S.S. Pakale i/by T.C. Kaushik for Petitioner.

Mr. R.V. Govilkar for Respondent No. 1.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: NOVEMBER 29, 2006

P.C.:

. Rule. Heard forthwith.

. The Petitioner in the instant case had approached the Central Administrative Tribunal (CAT) Mumbai by Original Application No. 3887 of 2004. The relief prayed for by the Petitioner amongst others was :

> "that this Hon'ble Tribunal may be pleased to direct respondents to grant pay scale of Rs.1600-2660 w.e.f. 1.1.1986 and Rs.2,000-3200 w.e.f. 1.1.1988 to applicants, on the principle of equal pay for equal work".
>
> The other prays were consequential.

. The learned tribunal by the impugned order dated 30.7.2004 relied on the judgment of the Chandigarh Bench which on a similar application on 6.11.2003 in O.A. No. 1105/PB of 2003 in case of Balbhuvan Versus Union. The learned Bench at Chandigarh had held that the qualification required for appointment were similar but in so far as the ministry of defence there was requirement of one years experience in community civil work and as such the qualification were superior compared to those of the Ministry of Railways and consequently granted the relief. We had enquired from the learned counsel for the Petitioner whether that order had been challenged.

. We are informed that the said order had not been challenged. The relevant issue in so far as we are concerned is whether the order of CAT suffers from any error apparent on the face of the record warranting interference by this court in the exercise of its extra ordinary jurisdiction. A few facts may be set out. As we find from the pleadings before the CAT, there is no dispute that as and upto April, 1999, that the salaries were being released by the Ministry of Health and Family Welfare. It is not the contention of any of the parties that under the Ministry of Health and Family Welfare, that

there were two different pay scales. It is only after May, 1994 that the respective department of the Government of India, started paying salaries from the funds allocated to them. In so far as Railways are concerned, the pay scales were revised with effect from 1.4.1986 and 1.4.1988. The nature of the work done by the Family Welfare Educator whether it be in the railways or in the armed forces is same or similar. The recruitment rules were same or similar. On the contrary, the findings of the Chandigarh Bench of Central Administrative Tribunal is that, the recruitment rules in the Armed forces are superior to the recruitment rules in the railways.

. Once in respect of the group of employees in the defence forces, does the same work and carrying the same designation, their claims have been accepted, by the Chandigarh Bench of Central Administrative Tribunal, the Petitioners herein were duty; bound to apply the same pay scale to all other similarly situated employees unless those orders were challenged and set aside. That has not been done. In view of the same, in our opinion, the order of Central Administrative Tribunal, to that extent, does not disclose any error of law apparent on the face of record. In the same department, in respect of similar post for same designation and the same

qualification, it is not permissible to have two different pay scales. The Supreme Court has culled out one exception, in so far as the pay scale based on qualification. In the instant case, it is not so. Once that be the case, we see no reason as to why the respondents before us who were applicants before the Central Administrative Tribunal should not be entitled to the same pay scales as those granted to Family Welfare Extension Educator by Chandigarh Bench of Central Administrative Tribunal.

. The other aspect of the matter as pointed out earlier is this particular programme was earlier under the control of the Ministry of Health and Family Welfare. The funds for the programmes were being released by the Ministry of Health and Family Welfare. This position continued upto the year 1994. After the year 1994, it is the respondent department of the Ministry of Railways and Defence that started paying pay of the Family Welfare Extension Educators from their respective budgetary allocations. In so far as Railways are concerned, the Union of India accepted the anomaly and granted revised pay scales of Rs.1600-2660 with effect from 1.4.1986 and the pay scale of Rs.2000-3200 with effect from 1.4.1988. This was the period when the Family Welfare Extension Educators were under the control and were paid from the budgetary allocations

of the Ministry of Health and Family Welfare. Once one section of the Family Welfare Extension Educators have been granted the said benefit, it was not open to the Petitioners herein to deny the benefits to another section of the Family Welfare Extension Educator who were being paid from the budgetary allotments of the Ministry of Health and Family Welfare. In our opinion, therefore, the order of Central Administrative Tribunal does not disclose any error of law apparent on the face of the record on this count also.

. After having said so, once the revised pay scales are being granted from 1.4.1986 and 1.4.1988 the respondents would be squarely entitled to further revision based on the pay scales as awarded on 1.4.1988.

. Considering the above, we find that the challenge by the Union of India to the order of Central Administrative Tribunal is devoid of any merit. Hence, Rule discharged. No order as to costs.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**